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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,302	06/02/2000	STUART EDMUND BLACKET	P-5742	3553

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EXAMINER

COZART, JERMIE E

ART UNIT

PAPER NUMBER

3726

DATE MAILED: 11/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/509,302	BLACKET, STUART EDMUND
	Examiner Jermie Cozart	Art Unit 3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 05 August 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 2-13 and 15-22 is/are pending in the application.

4a) Of the above claim(s) 16 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 2-13, 15, and 17-22 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on 05 August 2002 is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) Interview Summary (PTO-413) Paper No(s) _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 2-13, 15, and 17-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 15 recites the limitation "the radially outwards direction" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 17 recites the limitation "the lowermost sheet" in lines 8-9 of the claim. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 22 recites the limitation "the lowermost sheet" in line 6 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 2-12, 15, and 17-22 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 4,419,065 (DE'065).

DE'065 discloses joining together two or more superimposed generally planar sheets (1, 2) using a fastener having a shank (15) and having a fastener setting and

sheet deforming assembly comprising a die (3) with a cavity (10) surrounded by a recess (see *Figure 1A*), wherein the planar sheets (1, 2) are placed in the fastener setting and sheet deforming assembly. The assembly is operated to set the fastener into engagement with the sheets (1, 2) such that the shank (15) of the fastener is upset in the die cavity (10) without penetration of the lowermost sheet (2), and to deform all the sheets out of their planes into the annular recess (see *Figure 1C*). The sheets (1, 2) are deformed before the fastener is set (see *Figure 1B*). The sheets are clamped together before the fastener is set (see *Figure 1b*). The sheets are unclamped before the fastener is set (see *Figure 1A*). The sheets (1, 2) are clamped together between a clamping member (5) and the die (3), the sheets being deformed between the clamping member and die (see *Figure 1b*). The sheets are deformed by a head portion of the fastener (see *Figure 1C*). It is apparent that the sheets have been deformed after the fastener has been set. The sheets (1, 2) are deformed and the fastener (16) is simultaneously set (see *Figure 1C*). The sheets (1, 2) are deformed by a head portion (not labeled) of the fastener (16) driving the sheets into the recess (see *Figure 1C*) when the fastener is set. The sheets (1, 2) are clamped against a surface (12) of the die (3) outside the recess during the setting of the fastener. It appears that the thickness of the head increases continually in the radially outwards direction to define a convex surface beneath the head (see *Figure 3C*). See *Figures 1A-3C* for further clarification.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 4,419,065 (DE'065) in view of Applicant's Admitted Prior Art (AAPA).

DE'065 discloses all of the claimed subject matter except for the fastener head increasing in thickness toward the periphery so as to define a convex surface facing the recess formed in the die.

Figure 1 of AAPA appears to disclose the fastener head increasing in thickness toward the periphery so as to define a convex surface facing the recess formed in the die (13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to increase the thickness of the fastener head of DE'065 toward the periphery, in light of the teachings of AAPA, in order to effectively attach the rivet to the panels.

Response to Arguments

10. Applicant's arguments with respect to claims 2-13, 15, and 17-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

14. If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to CustomerService3700@uspto.gov.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermie Cozart whose telephone number is 703-305-

0126. The examiner can normally be reached on Monday-Thursday, 7:30 am - 6:00 pm.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Vidovich can be reached on 703-308-1513. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 308-6789 or (888) 786-0101
Assignment Branch	(703) 308-9723
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Petitions/Special Programs	(703) 305-9285
Terminal Disclaimers	(703) 305-8408
PCT Help Desk	(703) 305-3257

If the information desired is not provided above, or a number has been changed, please call the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	http://www.uspto.gov



GREGORY M. VIDOVICH
PRIMARY EXAMINER



JC
October 29, 2002